

Amendment to the Drawings:

The attached sheet, labeled in the top margin as 'Replacement Sheet', is sheet 5/5 and includes Fig. 7 and 8. The attached sheet includes changes to both Figs. 7 and 8. Specifically, Figs. 7 and 8 have both been replaced with new figures. The attached Replacement Sheet replaces the corresponding sheet that was submitted in the filing dated 27 February 2006.

Attachment: Replacement Sheet

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Remarks/Arguments

As of the Action, Claims 1-20 are pending in the Application. Claims 1-11 and 13 stand rejected. Claim 12 is objected to. Claims 14, 15 and 17 are withdrawn from consideration. Claims 18 and 18-20 are allowed.

Applicant herein amends withdrawn Claims 14, 15 and 17 (MPEP Section 714).

Applicant submits that these amendments add no new matter. Applicant also submits that the Application is in condition for allowance.

Applicant notes that the Claims, as amended, still include three independent claims (i.e., Claims 1, 13 and 16) and 20 total claims; and, as such, no excess claims fees are due.

Applicant further notes that this Amendment and Response is being filed with payment of extension fees for a one-month extension of time (as well as authorization to charge all required extension fees that may also be applicable to filing this paper), pursuant to 37 CFR 1.136.

In view of the Claims as set forth above and the remarks below, Applicant respectfully requests reconsideration and further examination of this Application.

Restriction and Election. The Action states that claims 14, 15 and 17 are withdrawn, because (i) an action on the merits for the originally presented invention has been mailed, (ii) the originally presented invention has been constructively elected by the examined claims, (iii) these withdrawn claims are directed to the non-elected invention and (iv) no generic or linking claim to these withdrawn claims has been found allowable.

The Action indicates that the species which has been constructively elected is that wherein the periodical motion is substantially elliptical. The Action also indicates that the Claims of this elected species include Claims 1-13, 16, and 18-20.

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Applicant notes that (a) of the elected Claims, Claim 16 is an independent claim, (b) Claim 16 has been indicated in the Action as "allowed" and (c) Claim 17 depends from this allowed, generic Claim 16. As such, Applicant respectfully submits that Claim 17 should now be considered. Indeed, Applicant respectfully submits this dependent Claim 17 should be allowable over the prior art in view of the allowability of independent Claim 16. See MPEP 806.04(d).

Objection to the Drawings. The Action objects to the response filed 27 February 2006 (the "February Response") based on a finding of new matter. Specifically, the Action finds that the February Response introduces new matter via the addition of Fig. 8.

The Action also objects to the drawings because, with Fig. 8 being viewed as new matter, a drawing objection of the previous action continues. More specifically, the Action states that the drawings must show the "actuator effecting the periodical motion of both the shaving head and the cutting member, and the first and second cutting members being effected by separate periodical motions."

Applicant notes that the "actuator effecting" objection appears to be directed to "features of the invention specified in" Claim 10, while the "separate periodical motions" objection appears to be directed to "features of the invention specified in" Claim 11. These features are described in paragraphs [0042] and [0043] of the Application, as published, which paragraphs have been amended herein in order to reference Figs. 7 and 8, respectively. (It is noted that, due to the amendment of the brief description of the drawings in the February Response, these two paragraphs may now be numbered [0044] and [0045], respectively.)

Applicant respectfully submits replacement Figs. 7 and 8, which are directed respectfully to address the Action's objections to the drawings.

Accordingly, Applicant respectfully submits that the replacement Figs. 7 and 8 add no new matter. Applicant also respectfully requests reconsideration and withdrawal of the drawing objections.

Rejection of Claims as to Enablement. The Action rejects Claim 11 under 35 U.S.C. §112 as failing to comply with the enablement requirement. Specifically, the Action rejects Claim 11, stating that the specification does not describe "how the cutting members (17 and 19) are effected by separate periodical motions when both cutting member are attached to the same carrier member (25)."

Applicant respectfully traverses. Applicant submits that, in paragraph [0043] of the Application, as published, the specification describes "a further carrier adjacent to the carrier 25". Moreover, Applicant has amended Fig. 8 to show such further carrier, as indicated by reference numeral 26.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

Rejection of Claims for Anticipation. The Action rejects Claims 1, 9, 11 and 13 under 35 U.S.C. §102(b) as being anticipated by Balamuth et al., U.S. Patent No. 3,756,105 ("Balamuth").

As to all Claims, the Action states that Balamuth anticipates based on disclosures designated in Balamuth's Figures 1 and 2.

Applicant respectfully traverses. Applicant submits that the Action fails to set forth a prima facie case for anticipation. Applicant further submits that the Action omits designation to support its conclusion that Balamuth teaches/suggests all of the elements, including the arrangement thereamong, of Applicant's Claims.

As an example, as to Claims 1 and 13, Applicant notes that the Action does not provide a prima facie case, e.g., because the Action's designations omit to show any

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teaching/suggestion of the Claims' limitation "the periodical motion [of the cutting member] is effected substantially in an imaginary plane extending transversely to the cutting edge".

First, Applicant reiterates its arguments of its February Response.

Second, Applicant respectfully notes that the Action's designations to Balamuth's Figures 1 and 2 clearly show that the cutting member 30 vibrates in the direction of arrow 70. Assuming this vibration is along an x-axis, this vibration may be perpendicular to the cutting member's edge (if the cutting member edge is arranged along a y-axis).

However, Balamuth's vibration is not a "periodical motion...in an imaginary plane", as that is to be understood from the Application. For example, Balamuth's vibration has no z-axis component. That is, nowhere does Balamuth teach/suggest motion of its cutting member 30 in a direction toward the internal portion of its shaving head assembly 15. Indeed, to have such z-axis motion, Balamuth's cutting member 30 would retract from its guard member 25, which retraction is neither shown by the Action's designations nor consistent with operation of Balamuth's mechanism.

By contrast, Applicant's cutting member has "a periodical motion in an imaginary plane" as it has a z-axis motion. As an example, as set forth in the Application's paragraph [0034] (as published), Applicant's cutting members are described as having periodical motion along a z-axis, as follows: "said elliptical motion having a major axis, which extends in the cutting direction X... and a minor axis, which extends in the Z-direction." Moreover, as set forth in the Application's paragraph [0030] (as published), Applicant's cutting members 17 and 19 have cutting edges 23 "extending substantially parallel to a y-direction". Taken together, these paragraphs describe the cutting member's periodical motion as having a z-axis component in being effected substantially in the imaginary plane extending transversely to the cutting edge.

As another example, as to Claims 1 and 13, Applicant notes that the Action does not provide a prima facie case, e.g., because the Action's designation omits to show any teaching/suggestion of the Claims' limitation having "the second motion portion being mainly

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directed opposite to the cutting direction and being closer to the skin, during operation, than the first motion portion." That is, Applicant respectfully submits that the Balamuth device is not and cannot be structured so as to provide, during operation, the above-referenced limitation: the vibration action precludes it.

Moreover, Applicant notes that the Action supports this rejection by stating: "when the shaver is held in a specific way." However, the Action does not indicate what the "specific way" might be that would enable a human to move the cutting edges closer to the skin on the second motion portion vs. the first motion portion — i.e., on each vibration back vs. forth for Balamuth. Applicant also respectfully submits that, even if it is assumed that a human may be argued as able to manipulate a shaving head to duplicate the Applicant's periodical motion of its cutting member, that is insufficient grounds for rejection of the claims, as Applicant claims a device (i.e., exclusive of any human). Indeed, the insufficiency of these grounds is underscored because, if a human could be added to so reject claims, Applicant submits that cited patents of the Action are invalid (i.e., as each patent implicates some motion of a cutting member that a human could be said to be capable of duplicating through some manipulation) which, of course, cannot be the case.

In view of at least the foregoing, Applicant requests that the Action's anticipation rejections of independent Claims 1 and 13 be reconsidered and withdrawn.

As well, as to dependent Claims 9 and 11, Applicant respectfully submits that the anticipation rejections of this Action are inept, e.g., for the same reasons as set forth above for respective independent Claim 1 (in that, each of these dependent Claims depends directly or indirectly from, and thus includes the elements of, independent Claim 1).

In view of the foregoing, Applicant requests that the Action's anticipation rejections of the dependent Claims be reconsidered and withdrawn.

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Rejection of Claims for Obviousness. The Action rejects Claims 1-10, 11 and 13 under 35 U.S.C. §103(a) as being unpatentable over Shaler, U.S. Patent No. 1,788,547 ("Shaler"), alone or in view of other references.

As to all Claims, the Action states that Shaler teaches "periodic motion of a blade (44) with a cutting edge" which motion "is in a direction transverse to the guiding edge (Pg. 2, lines 40-42)".

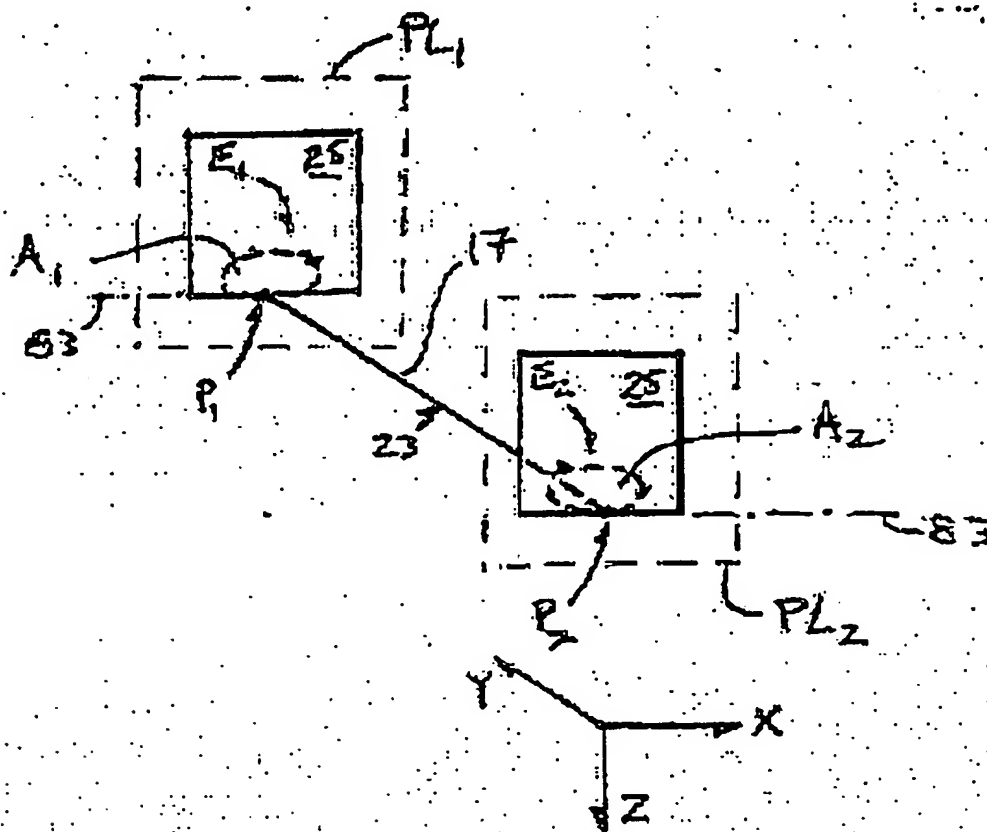
Applicant respectfully traverses. Applicant submits that the Action fails to set forth a prima facie case for obviousness. Applicant further submits that the Action omits designation to support its conclusion that Shaler teaches all of the elements, including arrangements thereamong, that the Action indicates are therein taught. Applicant respectfully further submits that the Action omits designation in the other cited references to support its conclusion that one or more of these other references teaches or suggests all of the elements, and arrangements thereamong, to properly fill the gaps the Action identifies in Shaler. Applicant also respectfully submits that the Action omits to provide sufficient motivation/suggestion to support combination of the references with Shaler.

As an example, Claims 1 and 13 include Applicant's limitation that the "periodical motion of the cutting member is effected substantially in an imaginary plane extending transversely to the cutting edge". Applicant notes that, pursuant to the Action's restriction requirement set forth above, the periodic motion currently being considered in examination is an elliptical path (see, e.g., paragraph [0038] of the Application, as published). As such, as to any selected point along the cutting member, the periodical motion is effected substantially in such imaginary plane extending transversely to the cutting edge, so that any such selected point sweeps through the elliptical path and, thereby, circumscribes a non-zero, elliptical area. For convenient examination and toward illustrating this concept, parts of Figures 2 and 4 from the Application are combined to provide the following sketch, which sketch shows a cutting member 17, its cutting edge 23 and its carriers 25 (adjacent skin contact surface 83), wherein the cutting

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member has two selected points ("P₁" and "P₂") that, in periodical motion, sweep out elliptical paths ("E₁" and "E₂"), each of which paths is substantially in a respective imaginary plane ("PL₁" and "PL₂") and encloses a respective area ("A₁" and "A₂");



As seen in the above sketch, each imaginary plane ("PL₁" and "PL₂") through which the selected points ("P₁" and "P₂") are swept extends transverse to the cutting edge 23. (Indeed, in this example at least, the planes are substantially parallel to the respective carriers 25.)

Accordingly, in Applicant's Claims, the periodical motion is motion substantially perpendicular to the cutting edge 23 so as to be substantially in both x- and z-directions (i.e., transverse) shown in such Figures 2 and 4. Moreover, periodical motion is such that non-zero areas ("A₁" and "A₂") are enclosed.

In light of the above, Applicant submits that the Action omits to present a prima facie case to support its contention that Shaler teaches/suggests Applicant's claimed "periodical motion". While Shaler uses the term "transverse", Shaler's use thereof does not have the same meaning as Applicant's use of that term. Indeed, Applicant submits that Shaler proposes, at most, a razor having a blade 44, wherein the blade has a vibratory movement confined so that any point along the blade is moved back and forth in a line contained within the plane of the blade (i.e., motion having only one direction (be it in x, y or z direction) and, being on a line, enclosing no area). As such, Applicant respectfully submits that Shaler does not and cannot teach/suggest Applicant's periodical motion.

In view of at least the foregoing, Applicant requests that the Action's obviousness rejections of independent Claims 1 and 13 be reconsidered and withdrawn.

As well, as to the dependent Claims, Applicant respectfully submits that the obviousness rejections of this Action are inapt, e.g., for the same reasons as set forth above for respective independent Claims 1 and 13 (in that, each of these dependent Claims depends directly or indirectly from, and thus includes the elements of, respective of independent Claims 1 or 13).

In view of the foregoing, Applicant requests that the Action's obviousness rejections of the dependent Claims be reconsidered and withdrawn.

Allowed Claims. The Action indicates that Claims 16 and 18-29 are allowed and that Claim 12 would be allowable if rewritten. Applicant appreciates the effort taken to examine these allowed claims.

However, Applicant respectfully declines to rewrite Claim 12, at this time, in view of the above.

Withdrawn Claims. Applicant respectfully requests entry of the amendments to withdrawn Claims 14, 15 and 17 and, in view of the foregoing, consideration of such amended Claims.

CONCLUSION

Generally, in this Amendment and Response, Applicant has not raised all possible grounds for (a) traversing the rejections of the Action or (b) patentably distinguishing the new Claims (i.e., over the Cited References or otherwise). Applicant, however, reserves the right to explicate and expand on any ground already raised and/or to raise other grounds for traversing and/or for distinguishing, including, without limitation, by explaining and/or distinguishing the subject matter of the Application and/or any cited reference at a later time (e.g., in the event that this Application does not proceed to issue with the Claims as herein amended, or in the context of a continuing application). Applicant submits that nothing herein is, or should be deemed to be, a disclaimer of any rights, acquiescence in any rejection, or a waiver of any arguments that might have been raised but were not raised herein, or otherwise in the prosecution of this Application, whether as to the original Claims or as to any of the new Claims, or otherwise. Without limiting the generality of the foregoing, Applicant reserves the right to reintroduce one or more of the original Claims in original form or otherwise so as to claim the subject matter of those Claims, both/either at a later time in prosecuting this Application or in the context of a continuing application.

Applicant submits that, in view of the foregoing remarks and/or amendments, the Application is in condition for allowance, and respectfully requests reconsideration and favorable action.

The Commissioner is hereby authorized to charge any fees (including extension fees), additional fees, or underpayments, or to credit any overpayments, to the credit card authorized on the attached PTO Form 2038, provided, however, that such fees, underpayments or

overpayments must arise solely in connection with this Amendment and Response. If the credit card cannot be processed, the Commissioner is hereby authorized to charge any fees (including extension fees), additional fees, or underpayments, or to credit any overpayments, to the undersigned attorney's Deposit Account No. 50-1001; again provided that such fees, underpayments or overpayments must arise solely in connection with this Amendment and Response. Otherwise, the Commissioner should review and follow any authorization previously given by Applicant to charge certain such fees and credit certain such overpayments to the Applicant's separate Deposit Account (No. 14-1270).

Respectfully submitted,

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Michael E. Schmitt
Registration No. 98,821
P. O. Box 2200
Hillsboro, Oregon 97123
Telephone: (503) 844-8009
Facsimile: (503) 296-2172
email: mail@ganzlaw.com

Correspondence to:

Phillips Intellectual Property & Standards
1109 McKay Drive; Mail Stop SJ41
San Jose, CA 95131 USA
Telephone: (408) 474-9073; Facsimile: (408) 474-9082
USPTO Customer Number: 24738

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